

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

VISTA UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2014051236

ORDER DENYING REQUEST FOR  
RECONSIDERATION

On June 12, 2014, the undersigned administrative law judge issued an order denying Student's motion for stay put on the grounds that a private entity had refused to continue to allow Student to attend its non-public school, the Office of Administrative Hearings lacks authority to order a private entity to allow a student to attend its non-public school, and Vista Unified School District offered Student placement at another non-public school that was comparable to Student's prior placement. On June 20, 2014, Student filed a request for reconsideration.

The Office of Administrative Hearings will generally reconsider a ruling upon a showing of new or different facts, circumstances, or law justifying reconsideration, when the party seeks reconsideration within a reasonable period of time. (See, e.g., Gov. Code, § 11521; Code Civ. Proc., § 1008.) The party seeking reconsideration may also be required to provide an explanation for its failure to previously provide the different facts, circumstances or law. (See *Baldwin v. Home Savings of America* (1997) 59 Cal.App.4th 1192, 1199-1200.)

Initially, Student requests reconsideration on the basis that the order denying stay put was erroneously issued on the incorrect belief that Student's prior placement had closed or "because of money." As stated above, Student's motion for stay put was denied because under the changed circumstances of a private entity refusing to allow Student to continue attending its non-public school (TERI), TERI cannot be considered Student's stay put right and District has satisfied its obligation to continue to provide Student with a placement consistent with Student's last agreed upon and implemented IEP by offering Student a different placement at another nonpublic school that District contended is comparable to TERI.

Student also requests reconsideration on the basis that Student is not insistent on returning to TERI but would like to attend another non-public school closer to Student's home. This fact was not raised in Student's original motion. Student's motion for stay put repeatedly requested only that District be ordered to have Student continue attending TERI.

Although Student's willingness to attend a different school, even a public school, is a new fact presented in the request for reconsideration, Student was aware of the existence of other schools at the time of the original motion for stay put but did not request any option other than TERI as a stay put placement. Further, Student's request for reconsideration offers no explanation of why this fact was not, or perhaps could not have been, presented in the original motion.

Student further requests reconsideration on the grounds that District's offered placement, Stein Education Center, requires Student to travel four to five hours per day. This fact was not raised in Student's original motion and Student's only objection to Stein in the original motion was the assertion, unsupported by a sworn declaration, that Stein "did not want to commit themselves in writing to being able to grant the therapies" required by Student's IEP. Although the travel time required for Student to attend Stein is a new fact presented in the request for reconsideration, Student was aware of the distance to Stein at the time of the original motion for stay put but did not raise travel time to dispute District's assertion that Stein is comparable to TERI. Further, Student's request for reconsideration offers no explanation of why this fact was not, or perhaps could not have been, presented in the original motion.

Accordingly, Student's request for reconsideration is denied.

IT IS SO ORDERED.

DATE: July 3, 2014

/s/

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KARA HATFIELD  
Administrative Law Judge  
Office of Administrative Hearings